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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,134	03/29/2004	Rebecca Wright	3086.EEM	3212
7590	01/24/2007		EXAMINER	
Charles W. Almer National Starch and Chemical 10 Finderne Avenue Bridgewater, NJ 08807			BERMAN, SUSAN W	
			ART UNIT	PAPER NUMBER
			1711	
			MAIL DATE	DELIVERY MODE
			01/24/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	Application No.	Applicant(s)	
	10/812,134	WRIGHT ET AL.	
<b>Examiner</b> Susan W. Berman	Art Unit		
	1711		
<b>--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</b>			
<b>THE REPLY FILED 21 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.</b>			
<p>1. <input checked="" type="checkbox"/> The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:</p> <p>a) <input checked="" type="checkbox"/> The period for reply expires <u>4</u> months from the mailing date of the final rejection.</p> <p>b) <input type="checkbox"/> The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.</p> <p>Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).</p>			
<p>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p>			
<b>NOTICE OF APPEAL</b>			
<p>2. <input type="checkbox"/> The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).</p>			
<b>AMENDMENTS</b>			
<p>3. <input checked="" type="checkbox"/> The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because</p> <p>(a) <input type="checkbox"/> They raise new issues that would require further consideration and/or search (see NOTE below);</p> <p>(b) <input checked="" type="checkbox"/> They raise the issue of new matter (see NOTE below);</p> <p>(c) <input type="checkbox"/> They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or</p> <p>(d) <input type="checkbox"/> They present additional claims without canceling a corresponding number of finally rejected claims.</p>			
<p>NOTE: <u>see attached page</u>. (See 37 CFR 1.116 and 41.33(a)).</p>			
<p>4. <input type="checkbox"/> The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).</p>			
<p>5. <input checked="" type="checkbox"/> Applicant's reply has overcome the following rejection(s): <u>35 USC 112 rejection of claim 23</u>.</p>			
<p>6. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).</p>			
<p>7. <input checked="" type="checkbox"/> For purposes of appeal, the proposed amendment(s): a) <input type="checkbox"/> will not be entered, or b) <input type="checkbox"/> will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.</p>			
<p>The status of the claim(s) is (or will be) as follows:</p>			
<p>Claim(s) allowed: _____.</p>			
<p>Claim(s) objected to: _____.</p>			
<p>Claim(s) rejected: <u>1-23</u>.</p>			
<p>Claim(s) withdrawn from consideration: _____.</p>			
<b>AFFIDAVIT OR OTHER EVIDENCE</b>			
<p>8. <input type="checkbox"/> The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).</p>			
<p>9. <input type="checkbox"/> The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).</p>			
<p>10. <input type="checkbox"/> The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.</p>			
<b>REQUEST FOR RECONSIDERATION/OTHER</b>			
<p>11. <input checked="" type="checkbox"/> The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>see attached page</u>.</p>			
<p>12. <input type="checkbox"/> Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____</p>			
<p>13. <input type="checkbox"/> Other: _____.</p>			
<p>Susan W Berman  Primary Examiner  Art Unit: 1711</p>			

***Response to Arguments***

The amendment to claim 23 will be entered upon filing of an appeal.

The amendment to claim 1 will not be entered.

Applicant's arguments filed 12/21/2006 have been fully considered but they are not persuasive.

The examiner has not found any basis in the specification as filed for the recitation of "non-reactive" silicone resin emulsions in the proposed amendment to claim 1. Applicant's disclosure on page 5, lines 13-21, does not mention that the silicone emulsion should be non-reactive. The disclosure of polydimethoxysiloxane as a silicone resin that can be utilized in the invention does not limit the kinds of silicone resin emulsions that are suitable. Furthermore, the specifically disclosed polydimethoxysiloxane contains reactive (hydrolyzable) methoxy groups.

It is agreed that the polydimethoxysiloxane disclosed by applicant is not equivalent to a silicone polyester acrylate such as Tegorad 2200N which contains reactive acrylate groups. It is also agreed that polydimethoxysiloxane would not be expected to be equivalent in function to a polyether siloxane copolymer, such as Tegoglide 450 since the polyether moieties would not be expected to function in the same manner as alkoxy groups. It is further noted that WO '728 specifically mentions several other suitable surfactants by tradename that could include alkoxy-functional siloxanes, in the absence of further definition.

Claim 17 is the only one of the instant claims wherein the silicone resin emulsion is limited to polydimethoxysiloxane. The examiner relies upon Griswold et al for teaching that polydimethoxysiloxane is a suitable wetting agents for compositions such as those taught by WO

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‘728, as set forth in the final rejection. With respect to applicant’s arguments for reconsideration of this rejection, it is not agreed that WO ‘728 requires using a reactive wetting agent. WO ‘728 does disclose one wetting agent having acrylate reactive groups but teaches additional silicone wetting agents and does not mention whether or not reactive groups are required or, if so, what kinds of reactive groups are required. Therefore, it is maintained that the methylmethoxysiloxane water reducible resin taught by Griswold et al as having advantages as a bath life extender and a water repellent would have been obvious to use as silicone wetting agent in the compositions taught by WO ‘728, in the absence of evidence to the contrary.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan W. Berman whose telephone number is 571 272 1067. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, James Seidleck can be reached on 571 272 1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SB  
1/22/07

*Susan Berman*  
Susan W Berman  
Primary Examiner  
Art Unit 1711